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IRELAND: DRAFT ARTICLE ON DELIMITATION OF AREAS OF CONTINENTAL SHELF BETWEEN NEIGHBOURING STATES

1. Where the coasts of two or more States are opposite or adjacent to each other, the areas of the continental margin/shelf appertaining to each State shall be determined by agreement between them in accordance with equitable principles.
2. In the absence of special circumstances and in so far as it is not inconsistent with equitable principles, the boundary agreed shall be on the basis of a median line every point of which is equidistant from the nearest point on the low water lines of the coasts of the States concerned. In determining a median line for the purposes of this article account may be taken of an island only if it is inhabited and if
 - (i) it is situated less than the breadth of the territorial sea from the low water line of the coast or
 - (ii) it contains at least one tenth of the land area and population of the State concerned.
3. Pending an agreement for which provision is made in the preceding paragraphs, no State is entitled to carry on exploration or exploitation activities in any areas which are claimed bona fide by any other State except with the express consent of that State, provided such a claim is not inconsistent with the principles laid down in this article.
4. In delimiting the boundaries of the areas appertaining to States under this article, any lines should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on land.

Explanatory note

The provisions of this draft article are intended to be without prejudice to the general question of the extent of coastal State rights over adjoining areas of the continental shelf or the continental margin. It is designed to provide a generally acceptable codification of the law on the delimitation of such areas between neighbouring States. In formulating the draft, special regard has been had to the principles laid down in the North Sea Continental Shelf case where the International Court of Justice held (i) that the rights of a coastal State over the continental shelf

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arise by virtue of its sovereignty over the land and (ii) that the primary rule of international law is that delimitation should be effected by agreement in accordance with equitable principles. Regard has also been had to the frequent use of the equidistance criterion as a starting-point in negotiations between States and the special problems that have frequently arisen concerning islands. It is generally agreed that off-shore islands should not be used as the base-point for measuring an equidistance boundary line in all circumstances. The draft article proposes an objective criterion to determine what islands should generally be taken into account in delimiting areas of continental margin (or shelf) on the basis of equidistance. It also seeks to ensure that no exploration or exploitation activities take place in areas, jurisdiction over which is the subject-matter of bona fide dispute between neighbouring States.